

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Application No.: 10/088,230

Attorney Docket No.: Q69036

AMENDMENTS TO THE DRAWINGS

FIGS. 4(a) and 4(b) have been amended so that they show the recording and reproducing apparatus 200 and refer to the positioning pins 190a, 190b.

Attachment: One (1) Replacement Sheet

REMARKS

Claims 6, 8-13, 15-17, and 19-25 are all the claims pending in the application. Claims 6, 12, 13, 17, 23, 24, and 25 are the examined independent claims. Claims 7 and 18 have been canceled.

Restriction

Independent claims 15 and 16 have been withdrawn from consideration.

Drawing Objections

As an initial matter, the Examiner has objected to the drawings under 37 C.F.R. § 1.84(a) as not showing every feature of the invention that is specified in the claims. In particular, the Examiner maintains that the recording and reproducing apparatus recited in claims 6, 12, 13, 17, 23, 24 and 25, must be shown or the feature canceled from the claim. In response, Applicant has amend FIGS. 4(a) and 4(b) so that they show the recording and reproducing apparatus. Accordingly, Applicant respectfully requests that the Examiner withdraw this objection.

Claim Objection

The Examiner has objected to claim 19 due to a minor informality. Accordingly, Applicant has amended claim 19 and respectfully requests that the Examiner withdraw this objection.

Claim Rejections Under 35 U.S.C. § 112

Claims 6-13 and 17-25 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. In particular, the Examiner again maintains that it is not clear if a single cassette or a collection of cassettes is claimed in combination with a recording apparatus,

and, if a collection is claimed, how the cassettes of that collection are physically or cooperatively related.

In the January 5, 2005 Amendment, Applicant argued that the claims are not indefinite. All tapes are recited in cooperation with a single recording and reproducing apparatus. The fact that a claim is broad does not necessitate a rejection for indefiniteness reasons.¹ In non-chemical arts, a claim may generally be written as broadly as permitted by the prior art. Finally, Applicant referred the Examiner to U.S. Patent No. 4,158,871 to Leaming, for an example of a “kit” type claim.

In response, the Examiner maintains that the current Application does not disclose a “kit” and maintains that it is not clear when a person would be infringing the claims. However, in regard to claim 6, for example, if an accused device has a recording and reproducing apparatus as set forth in the claim, and plural tape cassettes containing the claimed features and having the size relationships and similar difference in height of the radially inner portion and height of the ribs, then the accused device, in combination with the cassettes, falls within the scope of the limitations. On the other hand, if the magnetic tape cassettes of the accused device do not, for example, have the claimed positioning marks, or height differences, etc., then it falls outside the scope of the limitations. Therefore, Applicant respectfully submits that the claimed limitations clearly satisfy the requirements of § 112, second paragraph, are cooperatively related, and based on such limitations, it would be clear when a person infringes the claims.

¹ See MPEP § 2173.04, which states that the breadth of a claim is not to be equated with indefiniteness.

Further, the Leaming patent was cited to show that elements can be cooperatively related, even if they are not directly or physically connected to each other. For example, in claim 1 of Leaming, a cartridge case and a separate, non-affixed tool holder means are claimed. The tool holder means is not physically connected to the cartridge case, but rather, is cooperatively related for servicing at least one of the components of the cartridge case. Similarly, the claimed recording and reproducing apparatus and magnetic cassette tapes are cooperatively related.

The Examiner has further rejected claims 17, 23, 24 and 25. In response, Applicant has amended these claims in a manner believed to overcome the rejection. In view of the remarks discussed above, Applicant respectfully requests that the Examiner withdraw the §112 rejections.

Allowable Subject Matter

Independent claims 12 and 13 are allowed.

The Examiner has indicated that dependent claims 7, 8, 10, and 11 would be allowable if rewritten in independent from including all of the limitations of the base claim and any intervening claims. Accordingly, Applicant has added all of the recitations of dependent claim 7 to independent claim 6.

The Examiner has indicated that dependent claims 18, 19, 21 and 22 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112, second paragraph if and rewritten in independent from including all of the limitations of the base claim and any intervening claims. Accordingly, Applicant has added all of the recitations of dependent claim 18 to independent claim 17 and has amended claim 17, as mentioned above, in order to overcome the §112 rejection.

The Examiner has indicated that claims 23-25 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. In view of the amendments to claims 23-25 mentioned above, Applicant respectfully requests that the Examiner allow these claims.

Claim Rejections Under 35 U.S.C. § 103

Claims 6, 9, 17 and 20 are rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by the admitted prior art of the present Application ("APA").

In view of the amendments to claims 6 and 17 discussed above, this rejection is now moot.

Conclusion

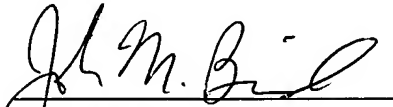
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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